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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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INTELLECTUAL PROPERTY GROUP

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EXAMINER

HAYES, ANDREW L

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

10/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,175

Applicant(s)

NEUMILLER ET AL.

Examiner

ANDREW HAYES

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 28 recite the element "patient lead cables". These elements are inferentially included. It is unclear if the applicant is positively reciting these elements or functionally reciting them. If they are being positively recited, the applicant should first set forth the elements before they are used in connection. If they are being functionally recited, terms such as "for" or "adapted" should be used to functionally recite the element(s).

Claims 2, 6, 8, 10, and 13 recite the elements "a battery". This element is inferentially included.

Claims 4 and 28 recite the element "battery information." This element is inferentially included.

Claim 1 recites the limitation "the pod receiving power from the base via the power sharing link..." This limitation is vague because no element has been set forth to supply power, only a line for transmitting power.

Claim 3 is vague because it cannot be determined what element is performing the step given the lack of a recitation of a power supply.

Claims 8 and 12 recites the limitation "sensed by the power module..." This limitation is vague because it has not set forth that the power module has a sensing function, and this needs to be set forth before a later steps of powering or drawing power from the pod is conditionally applied based upon this function.

Claim 9 should be rewritten as a functional limitation of the base because "an external power source" which is not an element of the system is inferentially included and it must be clear that the recitation is functional in order to claim this element in connection with the device. E.g. "the base is adapted to power the pod when the base is connected to an external power source."

Claim 11 lacks antecedent basis for the element "its defibrillation and monitoring functions."

Claim 12 lacks antecedent basis for "the batteries."

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 7, 11, 13-14, and 22-24, are rejected under 35 U.S.C. 102(b) as being anticipated by Saper et al. (US 3865101).

Regarding claims 1, 7, and 14, Saper et al. discloses a modular external defibrillator system (e.g. figure 1, element 10) including a base unit having a defibrillator module (e.g. figure 1, element 14, Col. 2 lines 10-21), a patient parameter monitoring

pod connectable to a patient view leads and cables in order to collect patient data (e.g. figure 1, element 12), the base and monitor each containing batteries (e.g. Col. 2 lines 25-34) and a power supply sharing link between the base and the pod (e.g. elements 34-36, Col. 3, line 46-52), wherein the pod can receive power from the base via the link, but is operable to collect patient data without receiving power from the base (e.g. Figure 3, Col. 3, lines 1-23; wherein the monitor unit's battery supplies power to the base, and returns power to the monitor from the base). (see also Col. 1 lines 44-57, which state that the master power controlling means are on the main housing, which further shows how the base provides power to the monitor from its own batteries during connection.)

Regarding claims 11 and 13, Saper et al. discloses drawing power from the monitor pod's battery through the share link to operate the defibrillator and monitor functions. (e.g. Col. 3, lines 46-52)

Regarding claims 22-24, Saper et al. discloses a switching means in the base which signals power on and power off to the monitoring unit through a wired connection through the presence of a power supply (e.g. figure 3, switch 38), and wherein the pod is operable through it's own switching means to power-on without the use of the means within the base (e.g. Figure 3, switch 32).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-6, 8-10, 17, and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saper et al. in view of Fincke et al. (US 5,470,343).

Regarding claims 2-5, 8-9, 17, and 28-31, Saper et al. discloses the claimed invention having power provided by the base to the monitoring unit when they are connected except for wherein the provided power charges the battery within the pod, and wherein charging occurs in response to a power module interrogating the pod battery and detecting a low power condition. Fincke et al. teaches that it is known to use a base connected to a docking station or power supply module able to be housed in the external defibrillator base that indicates battery levels (indication is also considered a form of alarm) and provides a charging power supply to the AED system's batteries in order to charge any batteries detected as being at low power wherein power supply provides power from a wall socket as set forth in e.g. Col. 2, lines 25-39, Col. 8 lines 25-28, Col. 9, lines 28-51 to provide convenient battery recharging. Furthermore, extending this concept to recharge the rechargeable battery within an integral monitor

module is an obvious implementation of this concept. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Saper et al., with a means within the base that provides power to the battery of the monitor pod to recharge the batteries in response to an indication of a low power condition which is displayed to a user as taught by Fincke et al., since such a modification would provide the system with the predictable results of convenient battery recharging.

Regarding claims 6 and 10, Saper et al. in view of Fincke et al. discloses the claimed invention except for wherein the power supply of the base providing charging is another battery. Replacement of a wall supplied AC source with a portable source for charging discharged units was known and was an obvious substitution to the method in Fincke et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the external power supply for charging the batteries in the system as taught by Saper et al. in view of Fincke et al., with a portable detachable battery supply within the base for recharging other batteries since it was known that such a substitution would provide the predictable results of better portability.

Regarding claim 25, Saper et al. discloses the claimed invention having a power control connection between the base and the pod except for wherein the control is connected wirelessly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Saper et al., with a wireless connection in place of a wired connection for controlling the power supply of the monitoring unit since it was known in the art that wireless connections are obvious

substitutions for wired connections providing data exchange between separately operable units and it is used to provide the predictable results of improving the convenience of establishing a data connection.

Regarding claim 26 and 27, Saper et al. in view of Fincke et al. discloses the claimed invention having a power switching means for controlling the on-off state of the monitor module except for wherein the off signal is either signaled by a command from the base or the monitor module turns off after a preset period of inactivity has been detected. However, sleep modes due to inactivity and signals that digitally cause an off state as opposed to a mechanical switching means are both well known within the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the power control system as taught by Saper et al., with either of a digital signaling means or a sleep mode detection means for turning off the power in the monitor module since it was known in the art that these elements are used to provide the predictable results of providing convenient control means and providing a failsafe that conserves energy in the device, respectively.

6. Claims 1-14, 17-21, and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al. (US 2003/0088275) in view of Fincke et al.

Regarding claims 1-5, 7-9, 14, 17, 19 and 28-31, Palmer et al. discloses an AED system that uses includes a main base unit with a defibrillator (e.g. figure 1, element 10), a detachable monitor pod (e.g. fig. 1, element 12; [0011]-[0012]), and a power supply sharing link providing optional power sharing (e.g. [0016]-[0018]) except for wherein the base unit can supply power to the monitor pod through the sharing link,

wherein the provided power charges the battery within the pod, and wherein charging occurs in response to a power module interrogating the pod battery and detecting a low power condition. Fincke et al. teaches that it is known to use a base connected to a docking station or power supply module able to be housed in the external defibrillator base that indicates battery levels (indication also considered to be a form of alarm) and provides a charging power supply to the AED system's batteries in order to charge any batteries detected as being at low power wherein power supply provides power from a wall socket as set forth in e.g. Col. 2, lines 25-39, Col. 8 lines 25-28, Col. 9, lines 28-51 to provide convenient battery recharging. Furthermore, extending this concept to recharge the rechargeable battery within an integral monitor module is an obvious implementation of this concept. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Palmer et al., with a means within the base that provides power to the battery of the monitor pod to recharge the batteries in response to an indication of a low power condition which is displayed to a user as taught by Fincke et al., since such a modification would provide the system with the predictable results of convenient battery recharging.

Regarding claims 6 and 10, the same reasons applied to the Saper et al. reference in view of Fincke et al. are also applied again for Palmer et al. in view of Fincke et al.

Regarding claims 11 and 13, Palmer et al. discloses drawing power from the monitor pod's battery through the share link to operate the defibrillator and monitor functions. (e.g. [0035])

Regarding claim 12, Palmer et al. discloses the claimed invention having a control means that pulls power from the monitor if the monitor is deemed capable of providing it in response to a determination that the battery in the pod is not in a low charge configuration. Because all charge levels in the base's battery are considered more desirable, the battery in the base unit can be said to always be considered in a low power condition by the device of Palmer et al.

Regarding claim 18, Palmer et al. clearly states that power in the defibrillator battery is more important, as previously stated. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Palmer et al. in view of Fincke et al., with a charging module that charges the base battery first since such a modification would provide the system the predictable results of timely preservation of the more important power supply.

Regarding claim 20, both Palmer et al. (e.g. [0039]) and Fincke et al. (e.g. Col. 8 lines 25-28) include elements that provide power modules that interrogate the various batteries to determine their charge conditions.

Regarding claim 21, while the charger in Fincke et al. is disclosed as being connected such that it is integral with the base, it also discloses that the previous method was to use a non-portable external docking station, and this is an obvious variant of the charging unit previously combined. (e.g. Col. 1, lines 18-33)

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saper et al. in view of Fincke et al. as applied to claim 14 above, and further in view of Schweizer (US 6,223,077).

Regarding claim 15, Saper et al. in view of Fincke et al. discloses the claimed invention except for wherein the batteries are smart batteries that provide battery status information to the device including charge status and battery usage. Schweizer et al. teaches that it is known to use smart batteries in an AED in place of "dumb batteries" when it is desirable to know battery status as set forth in e.g. the abstract to provide improved ability to determine a battery status. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Saper et al. in view of Fincke et al., with smart batteries that indicate useful battery status information as taught by Schweizer et al., since such a modification would provide the system with the predictable results of improving the ease with which battery status is determined.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al. in view of Fincke et al. as applied to claim 14 above, and further in view of Schweizer et al.

Regarding claim 15, Palmer et al. in view of Fincke et al. discloses the claimed invention except for wherein the batteries are smart batteries that provide battery status information to the device including charge status and battery usage. Schweizer et al. teaches that it is known to use smart batteries in an AED in place of "dumb batteries" when it is desirable to know battery status as set forth in e.g. the abstract to provide improved ability to determine a battery status. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Palmer et al. in view of Fincke et al., with smart batteries that indicate

useful battery status information as taught by Schweizer et al., since such a modification would provide the system with the predictable results of improving the ease with which battery status is determined.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saper et al. in view of Fincke et al. as applied to claim 14 above, and further in view of Smith et al. (US 4,096,856).

Regarding claim 16, Saper et al. in view of Fincke et al. discloses the claimed invention except for wherein the batteries in the base unit and the monitoring unit are interchangeable. Smith et al. teaches that it is known to use interchangeable batteries as set forth in Col. 5 lines 43-55 to provide improved ability to supply energy to the desired portions of the system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Saper et al. in view of Fincke et al., with interchangeable batteries as taught by Smith et al., since such a modification would provide the system with the predictable results of improving the ease with which energy is supplied to a desired portion of the device.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al. in view of Fincke et al. as applied to claim 14 above, and further in view of Smith et al.

Regarding claim 16, Palmer et al. in view of Fincke et al. discloses the claimed invention except for wherein the batteries in the base unit and the monitoring unit are interchangeable. Smith et al. teaches that it is known to use interchangeable batteries as set forth in Col. 5 lines 43-55 to provide improved ability to supply energy to the

desired portions of the system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Saper et al. in view of Fincke et al., with interchangeable batteries as taught by Palmer et al., since such a modification would provide the system with the predictable results of improving the ease with which energy is supplied to a desired portion of the device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW HAYES whose telephone number is (571)270-1906. The examiner can normally be reached on Monday - Friday 9:30 AM - 5:00 PM with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571)272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/
Primary Examiner, Art Unit 3762

/A. H./
Examiner, Art Unit 3762
9/27/2009